

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14633, of David C. and Janet B. Barnes, pursuant to Section 3107.2 of the Zoning Regulations, for a variance from the size and location requirements for a parking space (Sections 2115.1 and 2116.2) to serve a single family dwelling at premises rear 303 - 12th Street, S.E., (Square 991, Lot 814).

HEARING DATE: July 15, 1987
DECISION DATE: September 2, 1987

FINDINGS OF FACT:

1. The site, known as premises rear 303 - 12th Street, S.E., is an alley lot located in Square 991 which is bounded to the north by South Carolina Avenue to the south by D Street, to the east by 12th Street and to the west by 11th Street. The site is located in an R-4 District.

2. The alley lot is essentially rectangular in shape and relatively flat. It has a lot area of 1,703.17 square feet. It is improved with a two-story, brick carriage house currently used for storage. The lot and structure were created prior to 1900. On May 12, 1958, the effective date of the current Zoning Regulations, the site became nonconforming as to the lot size. Easements provide the owners of adjacent properties the "free and uninterrupted use, liberty and privilege of and passage in, over and along" the rear of the property.

3. The lot is accessed by a 10 foot wide public alley commencing at 12th Street. At the structure's northwest corner, the alley widens to a width of approximately 20 feet. The alley continues at this dimension until it dead ends approximately 20 feet from the structure's southern wall.

4. In addition to numerous garages and parking pads located in the rear yards of surrounding single-family row dwellings, the alley contains a second carriage house. This structure abuts the subject site's rear property line and is accessible by way of a separate alley commencing further south on 12th Street. This second alley terminates at the point where the subject alley ends but is precluded from joining the subject alley because of a grade differential and a retaining wall. Despite the grade difference between

the two alleys, the two carriage houses are located at the same grade.

5. Pursuant to Section 3107.2 of the Zoning Regulations, the applicant is seeking a variance from the size and location requirements for a public space intended to serve the single-family dwelling located in the carriage house.

6. By BZA Order No. 14491, dated December 19, 1986, the Board granted an application for variances for the subject site from the prohibition against converting an existing garage located on an alley lot into a single-family dwelling. This application provided one regulation size parking space in the rear yard. The record of the previous case is hereby incorporated.

7. By BZA Order 14491, dated July 3, 1987, the Board denied a motion by the applicant requesting modification of the approved plans. The applicant proposed deletion of the approved parking space at the south of the structure in order to respect the easements. The Board concluded that the requested relief exceeded the scope of the relief originally approved by the Board and would require an additional application.

8. The subject application would provide a nine foot by 18 foot parking space to the north, or front yard, of the site.

9. The rear yard of the site is of such a size that the applicants cannot respect the easement and at the same time provide the required parking.

10. By letter dated June 26, 1987, Advisory Neighborhood Commission (ANC) 6B reported that it opposes the application on the grounds that considerable community sentiment was evidenced in opposition to the application and in favor of continuing the present uses, i.e., storage for painting supplies or as a parking garage. The Board finds that the subject application is for a variance from the parking requirement only and that the Board has previously determined that the use of the carriage house as a single-family dwelling will not have substantial detriment to the public good.

11. Neighbors of the site testified in opposition to the application. Grounds for their opposition included the following:

- a. The belief that the owner of the single-family dwelling will not park in the space provided but rather on 12th Street exacerbating the already bad parking problem.
- b. The parking space will be difficult to enter.

The Board finds that considering the proximity of the parking space to the structure and the scarcity of parking on 12th Street, the occupant of the carriage house is most likely to park in the front yard of the site. The Board further finds that the public alley which serves the parking space is narrow but passable and no probative evidence has been presented to demonstrate that the alley does not provide sufficient access to the site or that one could not enter and exit the parking space with a minimum of difficulty.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and evidence of record, the Board concludes that the applicant is seeking an area variance. Single-family dwelling use is permitted on an alley lot. The variance requested relates not to the use but to the extraordinary condition of the lot itself i.e., the easements which preclude parking in the rear of the property. The granting of an area variance requires a showing of a practical difficulty upon the owner arising out of some extraordinary or exceptional situation or condition of the property. Further, it must be demonstrated that the relief sought will not be substantially detrimental to the public good not substantially impair the intent and purpose of the zone plan.

Sub-section 2115.1 of the Zoning Regulations requires that a parking space be a minimum of nine feet in width and 19 feet in length. The parking space proposed will be measured only 9 by 18 feet. Sub-section 2116.2 provides that parking may not be located in front yards of residential lots. The proposed parking will be located in the space determined by the Zoning Administrator to be the front yard of the lot.

The Board concludes that the applicant has met the burden of proof. The site is affected by an extraordinary condition in that development and use of the site is restricted by an easement. If the easement did not exist, the subject variance would not have been requested. The required parking space cannot be located in the rear yard as originally proposed because of the location of the easement in that area.

The Board further concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The granting of these variances will not create undue traffic problems in the alley.

The Board concludes that it has accorded to the Advisory Neighborhood Commission (ANC) 6B the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Maybelle T. Bennett, Charles R. Norris, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: OCT 7 1987

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14633order/LJP23